IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.04.2007

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE S. TAMILVANAN

WRIT PETITION No.1812 of 2004
and WPMP.No.1998 of 2004

M.C. Pandian .. Petitioner

vs.

1.The District Collector
Chennai District
Singaravelan Malligai
Rajaji Salai, Chennai 600 001.

2.The Tahsildar
Mambalam Guindy Taluk
Chennai 78.

3.The Assistant Director
Land and Survey Department
Chennai.

4.S. Nilavathy
5.S. Kotteswaran
6.S. Renugadevi
7.S. Nandakumar
8.S. Mahendra Babu .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus to call for entire records pertaining to the proceedings T.R.No.1316/01-02 dt.4/1/02 and quash the same and consequently direct the 1st and 2nd Respondent herein to cancel the patta issued in favour of the Legal Heir's of Mr.Santhagunam and issue patta in favour of the purchasers from the petitioners under various sale deeds executed through Mr Santhagunam.

For petitioner : No appearance
For respondents: No appearance for R.1 to R.3
Mr. Prabhakaran for R.4 to R.8

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

Aggrieved by the proceedings of the second respondent in TR.No.1316/01-02, dated 04.01.2002, the petitioner has filed the above writ petition to quash the same and consequently direct the first and second respondent to cancel the patta issued in favour of the legal heirs of Santhagunam and issue patta in favour of the purchasers from the petitioner under various sale deeds executed through Santhagunam.

2. Though today the learned counsel for the petitioner is absent, when the matter was heard by us on 30.03.2007, the learned counsel petitioner Ms. Bhagyalakshmi put forth the case of the petitioner. Today, we heard the learned counsel for the contesting respondents 4 to 8.

3. As rightly pointed out by the learned counsel for the contesting respondents, inasmuch as the matter in issue is the subject matter of the civil suit in O.S.No.110 of 2000 on the file of First Assistant Judge, City Civil Court, Chennai, we are of the view that the issue raised in this writ petition cannot be gone into by this Court exercising jurisdiction under Article 226 of the Constitution of India. Apart from this, the learned counsel for the contesting respondents has brought to our notice the earlier writ petition filed by the very same petitioner, viz., M.C. Pandiyan in W.P.No.20585 of 2003, which was dismissed by the learned single Judge of this Court on 04.12.2003. In the said case, the learned single Judge, after finding that the matter pertains to issue of patta and after referring the decision of the Division Bench reported in 1995 (1) MLJ 426 (Kuppuswamy Nainar vs. District Revenue Officer, Tiruvannamalai and others) held that in the matter of patta and title to the land in dispute, writ petition is not maintainable and also regarding the fact that the very same petitioner has filed suit in O.S.No.110 of 2000 on the file of First Assistant Judge, City Civil Court, Chennai, dismissed the writ petition with a liberty to him to work out his remedy in the civil suit.

4. The learned counsel further submitted that the petitioner has filed W.A.No.1030 of 2004 before the Division Bench of this Court. Verification of the record of the Registry shows that the said writ appeal came to be dismissed on 06.07.2006 due to non payment of batta for the respondents. The learned counsel also brought to our notice that though an exparte decree was passed in O.S.No.110 of 2000, the same was set aside and the suit is now pending before the same Court. In view of the same, as rightly observed by the learned single Judge, and of the fact that the matters relating to patta and title of the land are to be agitated only before the Civil Court and the same cannot be considered by exercising jurisdiction under Article 226 of the Constitution of India, we accept the objection raised by the learned counsel for the contesting respondents, more particularly, in view of

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restoration of the suit in O.S.No.110 of 2000, both parties are at liberty to highlight their grievance/stand/defence in the said proceedings.

With the above observation, the writ petition is dismissed. No costs. Consequently, connected WPMP., is also dismissed.

kh

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector
Chennai District
Singaravelan Malligai
Rajaji Salai, Chennai 600 001.

2.The Tahsildar
Mambalam Guindy Taluk
Chennai 78.

3.The Assistant Director
Land and Survey Department
Chennai.

+1 cc to Mr.A.Prabhakaran, Advocate Sr.No.21096.

+1 cc to Ms.P.Bagyalakshmi, Advocate Sr.No.21005.

TEJ(CO)
dcp/13.4.07

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